

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

KEVIN D. CARSON,

Petitioner,

v.

JASON BENNETT,

Respondent.

CASE NO. 3:24-cv-05591-DGE

ORDER DENYING MOTIONS FOR  
RELIEF FROM JUDGMENT (DKT.  
NOS. 32, 35, 36, 38, 39, 40, 41)

This matter comes before the Court on Petitioner's motions for relief from judgment. (Dkt. Nos. 32, 35, 36, 38, 39, 40, 41.) On November 19, 2024, the Court adopted a Report and Recommendation ("R&R") issued by United States Magistrate Judge Michelle L. Peterson. (Dkt. No. 26.) After identifying that Petitioner's objections (Dkt. No. 25) to the R&R failed to address the legal analysis contained in the R&R, the Court adopted Judge Peterson's findings that Petitioner had not exhausted his state court remedies and that Petitioner's habeas petition would likely be time barred under 28 U.S.C. § 2244(d). (*Id.*) The Court dismissed Petitioner's

1 habeas petition without prejudice, denied Petitioner’s pending motions as moot, and denied a  
2 certificate of appealability. (*Id.*)

3 After the Court issued its order adopting the R&R, Petitioner filed seven motions for  
4 relief from judgment pursuant to Federal Rule of Civil Procedure 60(b)(4). (Dkt. Nos. 32, 35,  
5 36, 38, 39, 40, 41.) Rule 60(b)(4) permits the Court to relieve a party from a final judgment,  
6 order, or proceeding if the judgment is void. Rule 60(b)(4) “applies only in the rare instance  
7 where a judgment is premised either on a certain type of jurisdictional error or on a violation of  
8 due process that deprives a party of notice or the opportunity to be heard.” *United Student Aid*  
9 *Funds, Inc. v. Espinosa*, 559 U.S. 260, 271 (2010) (internal citations omitted)

10 Petitioner’s motions for relief from judgment do not highlight a jurisdictional error or due  
11 process violation that would justify granting relief under Rule 60(b)(4) and do not address the  
12 issue raised by Judge Peterson. All of Petitioner’s motions challenge the Court’s failure to  
13 conduct de novo review with respect to different aspects of his application for habeas relief—his  
14 motion requesting records (Dkt. No. 32), his motion requesting production of the record (Dkt.  
15 No. 35), his motion to order a response (Dkt. No. 36), his motion requesting discovery (Dkt. No.  
16 38), his motion to appoint counsel (Dkt. No. 39), his motion for an evidentiary hearing (Dkt. No.  
17 40) and his motion requesting a Brady order (Dkt. No. 41.)

18 “[T]he district judge must determine de novo any part of the magistrate judge’s  
19 disposition that has been properly objected to.” Fed. R. Civ. P. 72(b)(3). The Court performed a  
20 de novo review of Judge Peterson’s disposition and considered Petitioner’s objections, finding  
21 they did not address the issues raised by Judge Peterson’s R&R. Petitioner has not demonstrated  
22 he is entitled to relief from the judgment pursuant to Rule 60(b)(4) or on any other ground.

1 Petitioner's motions for relief from judgment (Dkt. Nos. 32, 35, 36, 38, 39, 40, 41) are  
2 DENIED. Petitioner has filed several meritless motions in this case. Accordingly, except for a  
3 notice of appeal, any further pleadings the Petitioner files in this case will be docketed by the  
4 Clerk of the Court, but no action will be taken on them.

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6 Dated this 23rd day of December, 2024.

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David G. Estudillo  
United States District Judge